REMARKS

Claims 1-20 have been examined and rejected. By this amendment, Applicants cancel

claims 4, 9, 14 and 19. Thus, claims 1-3, 5-8, 10-13, 15-18 and 20 are all the claims pending in

the application.

Claim Rejections

Claims 1-3, 7, 11-13, 17 have been rejected under 35 U.S.C. § 103(a) as allegedly being

unpatentable over JP 10-098702 to Tsunoda *et al.* ("Tsunoda") in view of JP 2002-354436 to

Nakamura *et al.* ("Nakamura") and JP 2001-186487 to Nishimura ("Nishimura"). Applicants

traverse this rejection.

With regard to claim 1, the combination of Tsunoda, Nakamura and Nishimura does not

disclose or suggest at least an image processing section which checks whether said picked-up

picture data is valid or invalid based on at least one of brightness data of said picked-up picture

data and spatial frequency of said picked-up picture data, as recited in the amended claim. The

Examiner concedes that the combination of Tsunoda and Nakamura does not disclose these

features, and relies on Nishimura.

As cited by the Examiner, Nishimura discloses that "a motion of a target body is detected

and the comparison with the static image is calculated." In other words, Nishimura determines

data validity based on motion of the target. On the other hand, as set forth in the claim, data

validity is based on brightness data and/or spatial frequency of the picture data. Therefore, even

if one of ordinary skill in the art at the time the invention was made had been motivated to

combine the references, the combination would still not result in the claimed features.

For at least the above reasons, claim 1 is patentable over the combination of Tsunoda, Nakamura and Nishimura. Claim 11 contains features similar to the features recited in claim 1 and is therefore patentable for similar reasons. Claims 2, 3, 7, 12, 13 and 17, which depend from one of claims 1 and 11, are patentable at least by virtue of their dependencies.

Claims 4, 6, 14 and 16 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Tsunoda in view of Nakamura and Nishimura, and further in view of JP 40121308A to Aida ("Aida"). Claims 4 and 14 have been canceled without prejudice or disclaimer. Applicants traverse the rejection of claims 6 and 16.

As established above, the combination of Tsunoda, Nakamura and Nishimura does not disclose or suggest at least an image processing section which checks whether said picked-up picture data is valid or invalid based on at least one of brightness data of said picked-up picture data and spatial frequency of said picked-up picture data, incorporated into claims 6 and 16 by virtue of their dependency on claims 1 and 11, respectively. Aida does not cure the deficiencies of the combined references.

Similar to Nishimura, Aida discloses that "the picture element taking-in range is determined according to the average moving vector" (Abstract). On the other hand, Applicants' image processing section determines whether said picked-up picture data is valid or invalid, based on at least one of brightness data of said picked-up picture data and spatial frequency of said picked-up picture data. In other words, Aida determines data validity based on movement, whereas Applicants base the determination on brightness and/or pattern repetition. Even if one of ordinary skill in the art at the time the invention was made had been motivated to combine the references, the combination would still not result in the claimed features.

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Therefore, claims 6 and 16 are patentable over the combination of Tsunoda, Nakamura, Nishimura and Aida.

Claims 5 and 15 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Tsunoda in view of Nakamura, Nishimura and Aida, and further in view of JP 2002-077840 to Kato *et al.* ("Kato"). Applicants traverse this rejection.

As established above, the combination of Tsunoda, Nakamura, Nishimura and Aida does not disclose or suggest at least an image processing section which checks whether said picked-up picture data is valid or invalid based on at least one of brightness data of said picked-up picture data and spatial frequency of said picked-up picture data, incorporated into claims 5 and 15 by virtue of their dependency on claims 1 and 11, respectively. The Examiner relies on Kato to allegedly disclose displaying a received picture or a substitute picture based on the user's choice.

Kato merely discloses displaying a video image of the user or an animation video, based on the user's choice, but does not cure the above deficiencies. Therefore, claims 5 and 15 are patentable over the combination of Tsunoda, Nakamura, Nishimura, Aida and Kato.

Claims 8-10 and 18-20 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Nakamura in view of Aida, Nishimura and Kato. Claims 9 and 19 have been canceled without prejudice or disclaimer. Applicants traverse the rejection of the remaining claims.

Claims 8 and 18 contain limitations similar to the limitations recited in claim 1, which as established above in the arguments for claims 5 and 15, is patentable over the combination of Nakamura, Nishimura, Aida and Kato. Therefore, claims 8 and 18 are patentable for similar
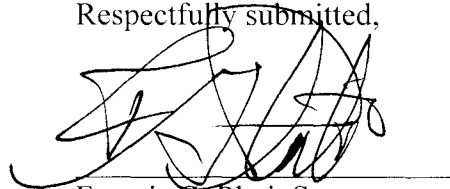
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reasons. Claims 10 and 20, which depend from claims 8 and 18, respectively, are patentable at

least by virtue of their dependencies.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed

to be in order, and such actions are hereby solicited. If any points remain in issue which the

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is

kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue

Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any

overpayments to said Deposit Account.

Respectfully submitted,

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